



OFFICE OF THE ETHICS  
COMMISSIONER

 OEC  
Alberta Lobbyist Registry

# What is Lobbying and am I a Lobbyist?

## GENERAL

Lobbying is a legitimate activity in a free and democratic society. The purpose of the *Lobbyists Act* (the “Act”) is not to impede lobbying activities, but to balance free and open access to government with public transparency as to who is accessing and seeking to influence government.

## DEFINITION OF LOBBYING

For both organization lobbyists and consultant lobbyists, “lobby” means to communicate with a public office holder, directly or through grassroots communication, in an attempt to influence matters relating to:

- the development, enactment, introduction, amendment, passage or defeat of legislation (including legislative proposals, bills, resolutions, regulations and orders in council);
- the development, establishment, amendment, or termination of any program, policy, directive or guideline of the Government or a prescribed Provincial entity;
- the awarding of any grant or financial benefit by or on behalf of the Government or a prescribed Provincial entity;
- decisions by the Executive Council or a member of the Executive Council to transfer from the Crown for consideration all or part of, or any interest in or asset of, any business, enterprise or institution that provides goods or services to the Crown, a prescribed Provincial entity, or the public; or
- decisions by the Executive Council or a member of the Executive Council to have the private sector, instead of the Crown, provide goods and services to the Government.

For consultant lobbyists only, “lobby” also includes:

- arranging a meeting between a public office holder and any other individual;  
or

- communicating with a public office holder in an attempt to influence the awarding of a contract by or on behalf of the Government or a prescribed Provincial entity.

## **GRASSROOTS COMMUNICATION IS LOBBYING**

The definition of “lobby” in the Act indicates that grassroots communication is a form of lobbying. This is consistent with the Ethics Commissioner’s May 14, 2016 report regarding Robin Campbell, which indicated that engaging in grassroots communications is lobbying in and of itself, rather than simply a technique of communication.

Grassroots communication means appeals to members of the public through the mass media or by direct communication that seek to persuade members of the public to communicate directly with a public office holder in an attempt to place pressure on the public office holder to endorse a particular opinion.

Examples of grassroots communication include mail-outs, newspaper or other media advertisements, and social media or website messages asking the public to contact a public office holder to urge him or her to endorse a particular position or opinion.

However, grassroots communication does not include communication between an organization and its members, officers or employees or between a person or partnership and its shareholders, partners, officers or employees.

Grassroots communication must be counted towards an organization lobbyist’s lobbying time and activities and consultant lobbyists must register any undertaking to engage in grassroots communication on behalf of a client. Lobbyists engaging in grassroots communication also must identify it as a technique of communication in their registrations.

## **WHO IS A “PUBLIC OFFICE HOLDER”?**

A “public office holder” means:

- a member of the Legislative Assembly (MLA);
- any individual on an MLA’s staff;
- a member of the Executive Council (includes the Premier and all cabinet ministers);
- a member of the Premier’s and Ministers’ staff as defined in the *Conflicts of Interest Act*;
- a member of an advisory or administrative board, committee or council established by a Minister under section 7 of the *Government Organization Act*; and
- an employee, officer, director or member of a Government department or of a prescribed Provincial entity.

## WHAT ARE THE GOVERNMENT DEPARTMENTS?

The Act defines “department” as a department established under section 2 of the *Government Organization Act*.

For a list of the current Government departments, please see the guidance document entitled “Government Departments” under the Resources tab of our website.

## WHICH ENTITIES ARE A PRESCRIBED PROVINCIAL ENTITY?

Prescribed Provincial entities currently include the entities that are listed in Schedule 1 of the *Lobbyists Act General Regulation*. There are approximately 250 prescribed Provincial entities listed in Schedule 1 of the Regulation.

Prescribed Provincial entities also currently include all public agencies within the meaning of Part 4.3 of the *Conflicts of Interest Act*. However, the Minister may, by Ministerial order, exclude any public agency from being a prescribed Provincial entity. The Minister also may, by order, identify any other entity (not already included as a public agency within the *Conflicts of Interest Act*) that is a Provincial agency as defined in s.1 of the *Financial Administration Act* as a prescribed Provincial entity for the purposes of the Act.

Some non-exhaustive examples of prescribed Provincial entities are:

- Agriculture Financial Services Corporation;
- Alberta colleges and universities;
- Alberta Gaming, Liquor and Cannabis Commission;
- Alberta Health Services;
- Alberta Energy Regulator;
- Alberta Investment Management Corporation;
- ATB Financial and its subsidiaries;
- Covenant Health;
- Energy Efficiency Alberta;
- Workers’ Compensation Board;
- Labour Relations Board;
- Credit Union Deposit Guarantee Corporation.

For more information about prescribed Provincial entities, please see the guidance document entitled “Prescribed Provincial Entities” under the Resources tab of our website.

## CERTAIN SUBMISSIONS ARE EXEMPT FROM BEING LOBBYING UNDER THE ACT

Some communications with public office holders are exempt from being lobbying. These include submissions:

- made in proceedings that are a matter of public record to a committee of the Legislative Assembly or to any body or person having jurisdiction or powers conferred by or under an Act;
- to a public office holder by an individual on behalf of a person or organization regarding the enforcement, interpretation or application of any Act or regulation by the public office holder with respect to the person or organization on behalf of which the submission is made;
- to a public office holder by an individual on behalf of a person or organization regarding the implementation or administration of any program, policy, directive or guideline by the public office holder with respect to the person or organization on behalf of which the submission is made;
- made to a public office holder by an individual on behalf of a person or organization if the individual is participating on a board, commission, council or other similar body established by a public office holder, the Government or a prescribed Provincial entity on any matter referred to in section 1(1)(f)(i) of the Act:
  - (A) the development of any legislative proposal by the Government or a prescribed Provincial entity or by an MLA,
  - (B) the introduction of any bill or resolution in the Legislative Assembly or the amendment, passage or defeat of any bill or resolution that is before the Legislative Assembly,
  - (C) the development or the enactment of any regulation or any order in council,
  - (D) the development, establishment, amendment or termination of any program, policy, directive or guideline of the Government or a prescribed Provincial entity,
  - (E) the awarding of any grant or financial benefit by or on behalf of the Government or a prescribed Provincial entity,
  - (F) a decision by the Executive Council or a member of the Executive Council to transfer from the Crown for consideration all or part of, or any interest in or asset of, any business, enterprise or institution that provides goods or services to the Crown or a prescribed Provincial entity or to the public, or
  - (G) a decision by the Executive Council or a member of the Executive

Council to have the private sector instead of the Crown provide goods or services to the Government;

- made to a member of the Legislative Assembly in his or her capacity as a member of the Legislative Assembly by one of his or her constituents (unless the submission concerns a private bill for the special benefit of that constituent).

## **CERTAIN INDIVIDUALS ARE EXEMPT FROM BEING LOBBYISTS UNDER THE ACT**

An individual is not considered to a lobbyist **when they are acting in their official capacity** as one of the following:

- a member of the Legislative Assembly, or any individual on their staff;
- a member of the Executive Council;
- a member of the Premier's and Minister's staff as defined in the *Conflicts of Interest Act*;
- an officer or employee of the Legislative Assembly Office under the *Legislative Assembly Act*;
- an individual appointed under the *Public Service Act*;
- an employee, officer, director or member of a prescribed Provincial entity;
- a designated senior official as defined in Part 4.3 of the *Conflicts of Interest Act*;
- a member of the Senate or House of Commons of Canada, or an individual on their staff;
- a member of the council or legislative assembly of another province or territory, or an individual on their staff;
- an employee of the Government of Canada or of the government of another province or territory;
- a member of a council or other statutory body charged with the administration of the civic or municipal affairs of a municipality, or an individual on their staff;
- an officer or employee of a municipality;
- a member of a Metis settlement council or the General Council under the *Metis Settlements Act*, or an individual on their staff;
- an officer or employee of a Metis settlement or the General Council under the *Metis Settlements Act*;

- a member of the council of a band as defined in subsection 2(1) of the *Indian Act* (Canada) or of the council of an Indian band established by an Act of the Parliament of Canada, an individual on their staff, or an employee of any of those councils;
- an individual who is recognized as an elder by their aboriginal community;
- a diplomatic agent, consular officer or official representative in Canada of a foreign government;
- a director, officer or employee of an organization referred to in section 1(1)(g)(iv) (i.e. a non-profit organization) not constituted to serve management, union or professional interests nor having a majority of members that are profit-seeking enterprises or representatives of profit-seeking enterprises;
- an official of a specialized agency of the United Nations in Canada or an official of any other international organization to whom privileges and immunities are granted by or under an Act of the Parliament of Canada;
- a member of a board of trustees under the *School Act*, an individual on their staff, or an officer or employee of those boards;
- a person acting as a volunteer who does not receive a payment;
- a member of the Alberta Investment Management Corporation, the Alberta Non-Profit/Voluntary Sector Initiative Collaboration Committee, Reclamation Criteria Advisory Committee, the Setting the Direction for Special Education in Alberta Steering Committee, the Strategic Transportation Advisory Committee, or the Vermillion River Water Management Systems Operations Advisory Committee;
- any other individuals or categories of individuals identified by Ministerial Order.

These exemptions only apply to the individual when they acting in their official capacity/as part of their official duties as one of the above. Individuals cannot rely on these exemptions outside of that official capacity.

## **TYPES OF LOBBYISTS**

There are two types of lobbyists under the Act: (1) consultant lobbyists and (2) organization lobbyists.

### **CONSULTANT LOBBYISTS**

#### **Definition in the Act**

“Consultant lobbyist” means a person who, for payment, undertakes to lobby on behalf of a client and includes an individual engaged by a consultant lobbyist to lobby in respect of an undertaking to lobby on behalf of a client.

A “client” simply means an individual or organization on whose behalf a consultant lobbyist undertakes to lobby.

“Payment” means money or anything of value and includes a contract, promise or agreement to pay money or anything of value, but it does not include a reimbursement of expenses.

### **Ask Yourself**

- Have I been hired or engaged to lobby on behalf of another individual or organization in exchange for payment?

If you answered yes to this question, you are a consultant lobbyist and the designated filer (i.e. highest-ranking paid senior officer) of your organization must file a registration for each client undertaking within ten (10) days of entering the undertaking.

## **ORGANIZATION LOBBYISTS**

### **Definition in the Act**

“Organization lobbyist” means an employee, officer or director of an organization who receives a payment for the performance of his/her functions, or a sole proprietor in a sole proprietorship, or a partner in a partnership:

- who lobbies or who has a duty to lobby on behalf of the organization for 50 hours or more in a year, including both the time spent preparing for communication and the time spent communicating with a public office holder; or
- whose lobbying or whose duty to lobby on behalf of the organization, together with the lobbying or duty to lobby of other persons in the organization, collectively amount to 50 hours or more in a year, including both the time spent preparing for communication and the time spent communicating with a public office holder.

An individual can be an “organization lobbyist” regardless of their seniority or position title within the organization.

The definition of “organization lobbyist” means that an organization must register as a lobbyist if the cumulative amount of time, including preparation time, that any one or more of its paid employees, paid officers, or paid directors, its partners, or its sole proprietor, have lobbied, or have a duty to lobby, on behalf of the organization is 50 hours or more in a year.

Preparation time includes anything done to get ready for communication with the public office holder, such as (without limitation) attending internal or external meetings or briefings regarding the anticipated communication, rehearsing the delivery of the anticipated communication, making plans or arrangements for the anticipated communication, conducting research, gathering information, developing presentations, written submissions, research papers, or other resources, and establishing and managing grassroots communication campaigns.

It is important to note that an organization can meet the 50-hour threshold simply if it has one or more paid employees, paid officers, paid directors, partners, or a sole proprietor that have a duty to lobby (including preparation time) for 50 hours or more in a year, even if they have not yet actually started to lobby or have not yet reached 50 hours of actual lobbying (including preparation time).

When considering whether an employee, officer or director of an organization receives a payment for the performance of his/her functions, note that the Act defines “payment” to mean money or anything of value, including a contract, promise or agreement to pay money or anything of value, but not including a reimbursement of expenses.

### **Ask Yourself**

- With respect to my organization, is it one of my duties to lobby, or do I lobby, on its behalf?
- If I am an employee, officer or director of an organization, do I receive payment for the performance of my duties or functions?
- Does the cumulative amount of time, including both the time spent preparing for communication and the time spent communicating with a public office holder, that I and other persons in the organization lobby, or have a duty lobby, on behalf of the organization amount to at least 50 hours in a year?

If you answered yes to these questions, you most likely are an organization lobbyist. The designated filer (i.e. the highest-ranking paid senior officer) for your organization must file a registration within two (2) months of the 50-hour threshold (including preparation time) being met through one or more persons in the organization.

### **CONSULTANT LOBBYISTS ENGAGED BY A PRESCRIBED PROVINCIAL ENTITY**

For the purposes of the Act, a consultant lobbyist engaged by a prescribed Provincial entity is considered to be a consultant lobbyist.

### **PERSONS PROHIBITED FROM LOBBYING**

#### *Contracting Prohibitions*

Under section 6 of the Act, no person is permitted to lobby if that person holds a contract for providing paid advice to the Government or a prescribed Provincial entity. Similarly, no person is permitted to enter into a contract for providing paid advice to the Government or a prescribed Provincial entity if that person lobbies.

In addition, no person shall lobby in respect of a subject matter if a person associated with that person holds a contract for providing paid advice to the Government or a prescribed Provincial entity on the same subject matter. No person shall enter into a contract for providing paid advice to the Government or a prescribed Provincial entity in respect of a subject matter if a person associated with that person lobbies on the same subject matter. A “person associated with” is defined in subsection 1(5) of the Act.



Please see the guidance document entitled “Contracting Prohibitions” under the Resources tab on our website for more information.

### Post-Employment Prohibitions

Under the *Conflicts of Interest Act*, former Ministers, former members of the Premier’s and Ministers’ staff, and former designated senior officials are prohibited from lobbying for 12 months from the last day that they held their position.

Under the *Public Service Act*, former designated office holders also are prohibited from lobbying for 12 months from the last day that they held their position.

### Prohibition Resulting from Offence

If a person is guilty of an offence under the Act, the Ethics Commissioner may, if satisfied that it is necessary in the public interest, prohibit the person who committed the offence from lobbying and from filing or having a return filed in respect of the person for a period of up to two (2) years.

Please see the *Lobbyists Act* for full definitions and provisions. For more information about the *Alberta Lobbyists Act* and Lobbyist Registry, please visit our website, particularly the For Lobbyists tab and the FAQ and other guidance documents under the Resources tab. You also may wish to take the “Do you think that you might be a lobbyist?” test on the main page of our website.

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